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PCT LEGAL ADMINISTRATION

In re Application of	:	
CHERKASOV et al.	:	
Serial No.: 10/578,313	:	
PCT App. No.: PCT/EP04/12556	:	DECISION ON
Int'l Filing Date: 05 November 2004	:	
Priority Date: 05 November 2003	:	PETITION UNDER
Attorney Docket No.: 076030-0011	:	
For: MACROMOLECULAR NUCLEOTIDE	:	37 CFR 1.181
COMPOUNDS AND METHODS FOR USING	:	
THE SAME	:	

This is a decision on applicant's "Petition under 37 CFR 1.181(a) to Correct 35 U.S.C. 371(c) Date", filed in the US Patent and Trademark Office on 15 September 2011. No petition fee is required.

BACKGROUND

On 04 May 2006 applicant filed a transmittal letter for entry into the national stage in the United States which was accompanied by, *inter alia*, the basic national fee.

On 18 January 2007, the Office mailed a Notification of Missing Requirements under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that an English translation of the international application was required. The notification set a TWO (2) MONTH period for response.

On 18 July 2007, applicant filed a response along with an English translation of the part of the international application.

On 09 October 2007, a Notice of Acceptance was erroneously mailed indicating that applicant had met the requirements of 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) on 18 July 2007.

On 25 January 2008, the Office mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating, that the application went abandoned for failure to respond to the Notification of Missing Requirements mailed 18 January 2007.

On 21 February 2008, applicant filed a petition requesting that the Office withdraw the holding of abandonment as the applicant had timely replied to the Notification of Missing Requirements. On 30 April 2008, a decision vacating the Notification of Abandonment and advising applicant that the response to the Notification of Missing Requirements was incomplete. Specifically, the decision indicated that an English translation of Claims 1-68 was not found among the papers filed on 18 July 2007 in response to the Notification of Missing Requirements.

DISCUSSION

The English translation of the claims allegedly submitted on 18 July 2007 is not found in the application file.

As stated in section 503 of the Manual of Patent Examining Procedure (MPEP):

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which a receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of invention, etc.

With the instant petition, Petitioner provided a copy of the English translation of the claims filed on 18 July 2007 and a copy of the USPTO date-stamped postcard receipt indicating that the English translation of the claims were filed. The postcard identifies the first applicant/inventor's name, title of the invention and docket number. Among the items listed on the postcard receipt are "14 pages of Claims (English Translation)". The postcard is date-stamped by the USPTO "OIFE JUL 18 2007".

A review of the USPTO date-stamped, itemized postcard receipt indicates that the "14 pages of claims (English translation)" were deposited with the USPTO on 18 July 2007. Applicant has now presented a copy of the claims originally filed on 18 July 2007 and provided a copy of the date-stamped postcard receipt. Thus, the evidence is sufficient to establish that the translated claims were received in the USPTO on 18 July 2007 and that the postcard receipt indicating a date of 18 July 2007 was mailed by the USPTO. Accordingly, the Office accepts the copy of the translated claims as a replacement for the missing original documents with a deposit date of 18 July 2007.

CONCLUSION

Applicant's petition under 37 CFR 1.181 to accept a copy of the English translation of claims originally filed on 18 July 2007 is GRANTED.

A copy of the claims originally submitted on 18 July 2007 and resubmitted on 18 September 2011 is acceptable.

The Notification of Acceptance mailed on 28 August 2009 is hereby VACATED.

The application will be forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing including issuance of a new Notification of Acceptance with a 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) date of 18 July 2007.

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